

**Métis
Settlements
Ombudsman**

1st Annual Report

For the period April 1, 2003 to March 31, 2004



April 2004

The Honorable Pearl Calahasen
Minister of Aboriginal Affairs and Northern Development
403 Legislature Building
10800 - 97 Avenue
Edmonton, Alberta
T5K 2B6

Dear Honourable Minister:

I am honoured and pleased to present to you the first Annual Report of the activities of the office of the Métis Settlements Ombudsman.

This report is submitted to you pursuant to *Schedule 1* of the *Agreement* effective April 1, 2003; it covers the activities of the office of the Métis Settlements Ombudsman for the period April 1, 2003 to March 31, 2004.

Original Signed by:
Harley Johnson

Table of Contents

MESSAGE FROM HARLEY JOHNSON, Alberta Métis Settlements Ombudsman.....	1
PRESENTATIONS AND NOTEWORTHY MEETINGS	3
Official Opening.....	3
Meetings and Presentations	4
OVERVIEW	5
Introduction	5
Mission Statement.....	5
Guiding Principles.....	5
Objectives	6
COMPLAINT PROCESS	7
Investigation and Resolution	7
Making a Complaint	7
Complaint Criteria	7
Complaint Process Flowchart.....	8
STATISTICAL INFORMATION	9
CASE SUMMARIES.....	13
APPENDIX A: Excerpt from the Ministerial Order legislating the mandate of the Office of the Métis Settlements Ombudsman	
APPENDIX B: Office of the Métis Settlements Ombudsman Budget Variance Report	
APPENDIX C: Administrative Fairness Checklist	
APPENDIX D: Conflict of Interest Checklist	



MESSAGE FROM HARLEY JOHNSON

Alberta Métis Settlements Ombudsman



In the context of public service, an Ombudsman embodies the concept of independent review of the activities of officials delivering services to the public in a fair and just manner. The Métis Settlements Ombudsman (MSO) of Alberta falls completely within that definition and, in addition, has the mandate to review any activities of alleged conflict of interest on the part of Métis Settlements Councils, staff, and employees of Métis Settlement Council entities.

It is indeed a pleasure and a privilege to have been chosen to assist in the development of an Ombudsman function within the Métis Settlements. The pleasure is that I am able to continue to be involved in a movement that wholly supports the concepts of accountability and fairness; it is a privilege in that I can share some of my experience within a new and developing governance structure.

For the most part, the office of the MSO has been well received. However, there are pockets of resistance to the idea of *independent* review of administrative and leadership issues. Much of the resistance reflects not on the role an Ombudsman might play, but on how the office was developed. Many feel that the position was imposed rather than negotiated. Still, many Settlement members have commented upon the need for such an office; even some of those who felt the position was imposed have recognized the need for an independent review of Settlement activities.

The process used in carrying out the work of the MSO is well documented and has been sent to every household on every Settlement. In addition, it has been published in the Alberta Métis Settlements "Messenger." I was also able to hold public meetings on the Settlements where I was able to personally discuss copies of the process with those who attended the meetings. I have included a copy of the process in this our first Annual Report, and I will be holding further public meetings throughout the coming year.

Simply, the process involves four stages: **further inquiry, review, inspection or investigation, and report.** **Further inquiry** is authorized when there is a need to clarify the complaint with people who contact my office. **Review** is a stage where cooperation is requested from Councils and staff to determine if there is some evidence to support the complaint. If there is, an **inspection or investigation** would take place and a **report** would be submitted to me. During each stage, there is a chance to resolve the issue either by correcting mistakes and errors or determining if a Council or staff member did, in fact, follow proper procedures, and the file would be closed. Part of the closing process involves notifying both the complainant and Council or staff member of the results.

Recommendations alone to Councils, staff and the people responsible for reviewing or implementing the MSO's recommendations are insufficient. Any recommendations must be advocated for, and followed up on, to ensure they have both successfully dealt with the initial complaint and to reduce the possibility that such actions are repeated.

The number one priority for my office has been communicating with and educating those responsible for the administrative activities of the eight Alberta Métis Settlements and Settlement members about this office, as well as what is administrative fairness and

MESSAGE FROM HARLEY JOHNSON

Alberta Métis Settlements Ombudsman

conflict of interest. As mentioned, all Settlements have been visited, and the issues have been discussed in both public and private meetings. Issues involving communication, employment and nepotism (complaints of favouritism shown to friends or family members) are the most noted Settlement member concerns.

A number of stakeholders want the Métis Settlements Ombudsman to direct Councils on how they conduct business. It must be understood that an Ombudsman makes recommendations based on independent review or investigation. Internationally and historically, this gives a wide scope of "research" activities where an Ombudsman can be involved. Because an Ombudsman is limited to making recommendations, he or she is not normally capable of being challenged in a Court, but has the capability to identify and publicize issues aimed at the improvement of the administrative activities of public bodies. This has been supported by the courts in a number of judicial decisions. It also allows public officials to do the jobs they were elected or selected to do, and, if they have done those jobs appropriately, to have the independent reviewer publicly identify this fact.

This Annual Report provides some of the types of complaints that this office has received and includes a short summary of some of the completed files.

Within our objective to assist in educating Settlement members in the principles of administrative fairness and conflict of interest, the office has established a **mentoring program** that allows Settlement members to gain a working understanding of the review/investigation process. The response to this program has been positive, and the number of Settlement members applying for these positions suggests a desire to learn, with these students hoping, of course, that the skills acquired will lead to further employment in this office or some related field. To date, we have had three such students and two more will begin in May. During the initial start-up phase of the office, over three hundred people applied for the two advisor/investigator positions and the administrative assistant's position. We were fortunate to be able to attract exceptionally qualified people for these positions.

As we have now completed one full year of operation, a review of this office will begin. Discussions will include: whether or not we accomplished our objectives; determining if we are properly situated within the Métis Settlements' governance structure; and how we can improve in the delivery of our services.

I personally wish to offer my thanks to the Métis Settlements General Council, Métis Settlement Councils, and the staff of the Department of Aboriginal Affairs and Northern Development, for their support in making this office "come to life." I also wish to thank my own staff who have, over the past year, provided exceptional support and much needed attention to detail.

Original Signed by:
Harley Johnson



PRESENTATIONS AND NOTEWORTHY MEETINGS

Official Opening

The office of the Métis Settlements Ombudsman officially opened September 23 in Edmonton. Members and leaders from a number of the Métis Settlements joined government officials in a ribbon cutting ceremony and open house.

Alberta Aboriginal Affairs and Northern Development Minister the Hon. Pearl Calahasen and Lac La Biche-St. Paul MLA Ray Danyluk were on hand to extend best wishes and continued success to Alberta Métis Settlements Ombudsman Harley Johnson and his staff.

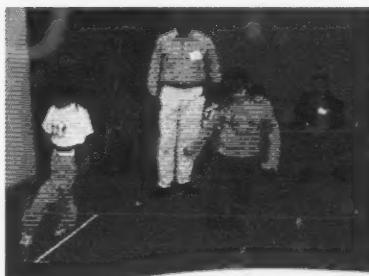
The Métis Settlements Ombudsman office has been operating since April of 2003. Those who attended the open house had an opportunity to meet staff, learn first-hand about the various functions of the office, and gain a better understanding of how the Métis Settlements Ombudsman can help to build stronger Métis Settlements.



Minister of Aboriginal Affairs and Northern Development, the Hon. Pearl Calahasen, provided comments and congratulations at the event. Shown listening to the Minister's address are Susan Cardinal and Elmer Ghostkeeper.



The Hon. Pearl Calahasen, Minister of Aboriginal Affairs and Northern Development, Ray Danyluk, MLA Lac La Biche/St. Paul, and André L'Hirondelle, Chairman of the Métis Settlements Appeal Tribunal, were on hand to assist Harley Johnson, the Métis Settlements Ombudsman, in the ceremonial ribbon cutting. Joyce Parenteau, Elder from Paddle Prairie Métis Settlement, and Harrison Cardinal, Elder from Kikino Métis Settlement, helped out by holding the ceremonial ribbon.



Members of the Edmonton Métis Cultural Dance Society were on hand to perform traditional Métis dances. Dance Instructor Brent Potskin watches as daughters Elizabeth L'Hirondelle-Potskin (left) and Paige L'Hirondelle-Potskin perform the Broom Dance. Watching with interest in the background is Harry Supernault, President of the Métis Settlements General Council.

PRESENTATIONS AND NOTEWORTHY MEETINGS

Meetings and Presentations

The following meetings and presentations took place in 2003/04:

- Briefing to the Minister (3)
- Buffalo Lake Staff – Presentation
- Buffalo Lake Public Meeting – Presentation
- East Prairie Council/Staff – Presentation
- East Prairie Public Meeting – Presentation
- Elizabeth Council – Presentation
- Elizabeth Staff – Presentation
- Elizabeth Public Meeting – Presentation
- Fishing Lake Staff – Presentation
- Fishing Lake Council – Presentation
- Fishing Lake Public Meeting – Presentation
- Gift Lake Council – Presentation
- Gift Lake Staff – Presentation
- Gift Lake Elders – Presentation
- Gift Lake Public Meeting – Presentation
- Kikino Council – Presentation
- Kikino Council/Elders Advisory Committee – Presentation
- Kikino Public Meeting – Presentation
- Paddle Prairie Council – Presentation
- Paddle Prairie Public Meeting – Presentation
- Peavine Council – Presentation
- Peavine Public Meeting – Presentation (off Settlement)
- Métis Settlements General Council (MSGC) - New Councillor Workshop
- MSGC Governance Tour - Eastern Settlements (2)
- MSGC Governance Tour - Western Settlements (4)
- Alberta Human Rights Commission (in attendance with the Métis Settlements Appeal Tribunal and Métis Settlements Land Registry)
- Tanzanian Fellows - Ethics Promotion Project – Presentation



OVERVIEW

Introduction

In the past, concerns have been raised about Métis Settlements' management and leadership. A 1999 Métis Settlements Appeal Tribunal Task Force looked into this issue and recommended an ombudsman-like function be created for Métis Settlements in Alberta. This was later supported by a feasibility study. Most Métis Settlement members and elders supported this recommendation.

The office of the Métis Settlements Ombudsman (MSO) was thereby created in 2003 to provide an independent and impartial place to take complaints about Settlements' management or leadership. It also exists to identify unfair or unjust complaints made against Councils and staff.

Alberta's Minister of Aboriginal Affairs and Northern Development appoints the MSO based on a recommendation of a selection committee. The Minister delegates the MSO to hear complaints and to appoint inspectors and investigators as needed. The authority of individuals appointed by the MSO includes conducting independent inspections or investigations, with the powers of a Commissioner, under the *Alberta Public Inquiries Act*.

Mission Statement

The mission of the Métis Settlements Ombudsman (MSO) is to promote the rights and responsibilities of Métis Settlement Councils, staff, entities and members, through inspection, investigations and recommendations.

Guiding Principles

The mission will be accomplished utilizing inspections and investigations involving the principles of administrative fairness and ethical leadership (conflict of interest) guidelines. (In order to better understand the principles of **Administrative Fairness** and **Conflict of Interest**, checklists have been developed – please refer to Appendix C and Appendix D.)

OVERVIEW

Objectives

By authority of a ministerial delegation, the Métis Settlements Ombudsman:

- ✓ will assist Settlement members and Councils to understand the concepts of administrative fairness and leadership issues.
- ✓ will promote appropriate standards for the delivery of Settlement services to the Settlement communities.
- ✓ will accept complaints from Settlement members who feel that an administrative error or injustice has occurred in their dealings with Métis Settlement Councils, staff, or a Council entity.
- ✓ will accept complaints from Settlement members who feel that a Métis Settlements Council, an individual Councillor, staff member, or an employee of a Council entity has been involved in a leadership conflict of interest.
- ✓ will identify unfair or unjust complaints against members of Métis Settlements Councils, Council staff, or an employee of a Council entity where there are frivolous complaints or rumoured allegations of impropriety.
- ✓ may conduct an investigation/inspection where a review of the complaint identifies sufficient evidence to indicate an administrative error or injustice may have occurred and/or a Council, Councillor, staff member or employee of a Council entity has acted in a real or perceived conflict of interest.
- ✓ may inspect/investigate any administrative fairness or leadership issue "on [the MSO's] own initiative." (*Métis Settlements Act*)
- ✓ will communicate the results of an inspection/investigation in any fashion the MSO deems to be appropriate, including recommendations to resolve a specific complaint or to improve a service delivery system.
- ✓ will advocate for any recommendation(s) made.

The Métis Settlements Ombudsman:

- ✓ cannot accept complaints about issues that occurred before March 31, 2002.
- ✓ may insist that all options available to a complainant be attempted before the MSO can become involved.
- ✓ is guided by the provisions of Section 171-175 of the *Métis Settlements Act*.



COMPLAINT PROCESS

Investigation and Resolution

It is the Métis Settlements Ombudsman (MSO) office's job to hear complaints and concerns and to deal with them in the most appropriate way. When a complaint is received, the MSO will determine if there is enough evidence to start an investigation. If a review discovers a mistake or impropriety was made, the MSO normally works informally with people to resolve the concern and to prevent the same error from occurring again.

Concerns that cannot be resolved through discussion or mediation are investigated. The results of investigations may be made public.

Making a Complaint

Anyone may make a complaint to the MSO. However, an individual who has a complaint must first try to resolve the matter him/herself. This includes going through any formal appeal processes that might exist with Métis Settlements. Anyone who remains dissatisfied after appeals are heard is welcome to bring a complaint to the MSO.

There is no charge for filing a complaint.

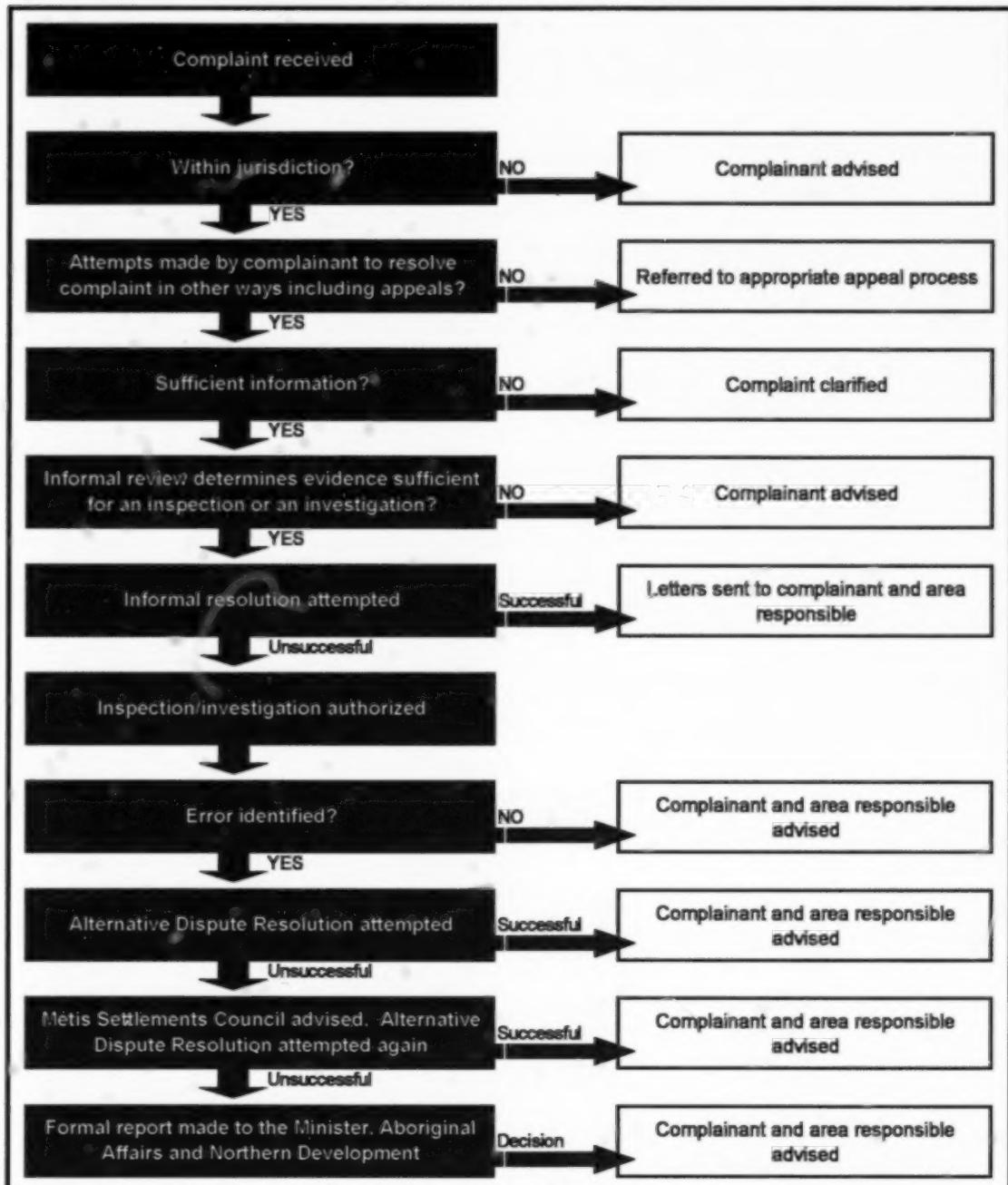
Complaint Criteria

For a complaint to be considered:

- In most cases, the issue complained about must have occurred on or after March 31, 2002. Occasionally, an issue that occurred prior to March 31, 2002, may be reviewed if action on a complaint was taken after March 31, 2002.
- The complaint should be in writing and include the name, address, phone number and signature of the person making the complaint.
- The complaint must relate to the activities or business of an Alberta Métis Settlement Council, staff, or an individual Métis Settlement Councillor or Administrator.
- The complaint must involve an allegation of mismanagement, an unfair or unethical practice, or a conflict of interest.
- The complaint must be based on facts or evidence.

COMPLAINT PROCESS

Complaint Process Flowchart





STATISTICAL INFORMATION

The office of the MSO keeps internal, confidential records on the complaints it receives. This information is compiled statistically to help identify areas of concern and to provide direction and focus for the office.

The following chart shows the total number of complaints received in 2003 according to Settlement:

Settlement:	Number of Complaints	Number of Complainants
Buffalo Lake	30	17
East Prairie	44	15
Elizabeth	10	6
Fishing Lake	204*	33
Gift Lake	24	12
Kikino	51	18
Paddle Prairie	33	23
Peavine	30	9
Other	11	11
TOTAL:	437	144

*This total includes numerous petitioners having multiple complaints.

Complaints are broken down into **jurisdictional** (those which the MSO has the authority to look into) and **non-jurisdictional** (those outside MSO authority). A number of complaints received were termed "requests for information" (i.e. the caller wished to remain anonymous or asked for clarification on the role of the MSO) and were not categorized as jurisdictional or non-jurisdictional.

The total complaints received in 2003 can be summarized as follows:

Jurisdictional Complaints:	360
Non-Jurisdictional Complaints:	55
Requests for Information	22
Total Complaints Received	437

STATISTICAL INFORMATION

Complaints within the jurisdiction of the MSO fall within two categories: *Administrative Fairness* (how Council, staff, members and other entities deal with each other in their daily business) or *Conflict of Interest* (fairness, integrity and impartiality of decision making). In 2003, 70% of the complaints involved matters of Administrative Fairness while 30% dealt with Conflict of Interest.

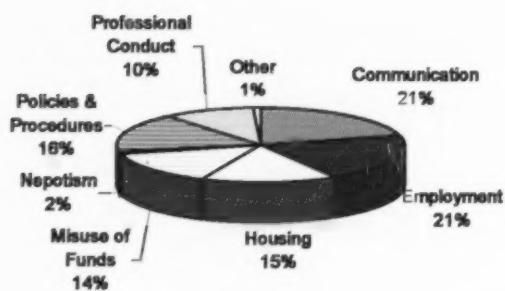
Jurisdictional Complaints Received

April 1, 2003, to March 31, 2004

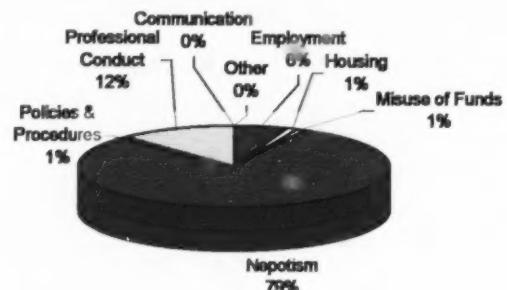
<u>Complaint Categories:</u>	Number of Complaints	
	Administrative Fairness	Conflict of Interest
Communication	52	0
Employment	52	6
Housing	39	1
Misuse of Funds	36	1
Nepotism	4	85
Policies & Procedures	41	1
Professional Conduct	27	13
Other	2	0
Subtotal	253	107
TOTAL		360

Communication and Employment had the highest number of Administrative Fairness complaints at 21% each. The number of complaints regarding Nepotism (complaints of favouritism shown to friends or family members) stands out with 79% of the total Conflict of Interest complaints.

Administrative Fairness



Conflict of Interest





STATISTICAL INFORMATION

Non-jurisdictional complaints, those outside of MSO authority, were grouped as follows:

Non-Jurisdictional Complaints Received

April 1, 2003, to March 31, 2004

Categories:	<u>Number of Complaints</u>
Aboriginal Affairs and Northern Development	0
Métis Settlements General Council	1
Métis Settlements Appeal Tribunal	15
Bill C-31 – Status under the <u>Indian Act</u> (Canada)	15
Other	24
TOTAL	55

Requests for Information

TOTAL	22
--------------	-----------

Of the total 437 complaints received in 2003, 142 were resolved:

Jurisdictional Complaints Received:	360
- Administrative Fairness (253)	
- Conflict of Interest (107)	
Non-Jurisdictional Complaints Received:	55
Requests for Information	<u>22</u>
Total Complaints Received	437

Resolution of Jurisdictional Complaints:	92
- Administrative Fairness (71)	
- Conflict of Interest (21)	

**Resolution of Non-Jurisdictional Complaints:	50
Total Complaints Resolved	<u>142</u>

Total Active Files as at April 1, 2004 **295**

STATISTICAL INFORMATION

Every attempt is made by the MSO to resolve concerns and bring about a positive conclusion for both the complainant, and for the party being complained about. In some cases, the MSO was able to provide a referral, or to act as a "mediator" between the two parties. Of the total 437 complaints received in 2003, the following jurisdictional complaints were resolved as follows:

Resolution of Jurisdictional Complaints Received April 1, 2003, to March 31, 2004

<u>Disposition:</u>	Administrative Fairness	Conflict of Interest
Oral complaint/no formal complaint submitted	41	12
Inquiry made/referral given/resolution facilitated	9	5
Reviewed: Insufficient evidence to warrant inspection and/or investigation	15	4
Reviewed: Sufficient evidence identified and resolved through: -mediation/arbitration	1	0
-complaint withdrawn	3	0
-informal resolution successful	2	0
Inspection/Investigation: insufficient evidence	0	0
Inspection/Investigation: recommendation made/resolved through: -mediation/arbitration	0	0
-complaint withdrawn		
-recommendation accepted and implemented		
Formal report to the Minister	0	0
Subtotal	71	21
TOTAL		92

**This chart does not reflect the 50 non-jurisdictional complaints received by the MSO.

Although this chart is self-explanatory, it is interesting to note that 58% of the jurisdictional complaints (Administrative Fairness: 41; Conflict of Interest: 12) did not move beyond "oral complaint/no formal complaint submitted." In order for a complaint to be reviewed, it must be in writing and signed by the individual.



CASE SUMMARIES

Case Summaries

The following case summaries provide a sample of the types of complaints received by the MSO. Every attempt has been made to protect the privacy of the individuals involved.

Proprietary Interest

A non-member spouse of a deceased Settlement member claimed compensation for damaged property. The claimant had moved primary residence off Settlement after the spouse's death. Although there are provisions in the *Dower Act* permitting "non-member" surviving spouses to remain living on the homestead, by moving off Settlement, one gives up Dower rights. The MSO supported Council's decision not to compensate.

Surveillance Camera Use

The Complainant reported a Settlement's use of a surveillance video camera although signs were not posted. The Settlement Administrator was advised of the *Freedom of Information and Protection of Privacy Act*, sections 33 and 34, dealing with the use of video surveillance in public places and the requirement to post notice of this use.

The MSO provided a copy of the Government of Alberta Freedom of Information and Protection of Privacy document entitled "*Guide to Using Surveillance Cameras in Public Areas*" to the Settlement Administrator. The MSO has received confirmation that notices have been posted advising of the use of surveillance cameras.

Contract Monies Owed

Following completion of a contract, a Settlement owed money to a complainant.

As a result of MSO inquiries, the Settlement Administrator discovered that although the cheque had been issued, it had been sitting in the Settlement Finance Office for several months. Upon this finding, the cheque was mailed to the complainant immediately. The MSO recommended Finance Department personnel be much more vigilant in the future.

Reprimand of Settlement Staff Member

A Settlement staff member complained that a supervisor had "unfairly" placed a reprimand on file for the complainant being under the influence of drugs in the workplace. The complainant has a medical condition and allegedly over-medicated on the date in question. When the complainant informed the supervisor of "the complaint to the MSO," the supervisor made an agreement with the complainant removing the reprimand from the file under the condition the employee see a physician to discuss treatment for a possible drug dependency. The complainant was satisfied with this outcome and requested MSO involvement in this matter be discontinued.

Cut Off STI Funding

A probationary Settlement member had received funding from the Métis Settlements Strategic Training Initiatives Society (STI). The funding was cut off when the Métis Settlements Appeal Tribunal terminated the membership. The

CASE SUMMARIES

MSO Advisor informed the complainant that priority for STI funding is for "members" on an authorized leave of absence. As such, no further action could be taken.

Tendering Process

A complainant tendered to operate a Settlement-owned facility. The complainant felt that the Settlement unfairly denied the contract, as the complainant was the "only tender." A review showed that this was a second tender, and there was no clause indicating the Settlement was bound to accept "any proposal." After discussions, the Settlement and the complainant agreed to settle through arbitration. This arbitration process is still ongoing.

Conflict of Interest

A review was conducted into a complaint of "conflict of interest" where a Councillor failed to excuse himself from a meeting where the Councillor was involved in a decision which affected an immediate family member. After a review, the MSO concluded there was no impact of the Councillor's involvement even though it "technically" violated conflict of interest guidelines. The Councillor was strongly cautioned in writing about participation in future meetings involving immediate family.

Multiple Concerns

A Settlement member had numerous complaints about the Settlement including: housing not being distributed in a fair manner, the posting of meeting minutes in a manner inconsistent with the *Métis Settlements Act*, status checks being conducted on members too frequently, the Elders' Centre being mismanaged, people being placed into Settlement positions

without being interviewed, and independent audits of the Settlement not occurring. On review by the MSO, there was insufficient evidence to support any of the complaints and, consequently, no further action was taken.

Conflict of Interest – Election

A Settlement member complained that, during a Settlement election, the Returning Officer was a sibling to the successfully-elected Council candidate.

There are no guidelines that prohibit family members from performing the duties of Returning Officer when other members of the family are Council candidates in an election. However, this could be "perceived" as a conflict of interest. A potential solution could be to post "off-Settlement" for the Returning Officer. This issue needs to be addressed through a Métis Settlement General Council Policy or a Settlement By-law.

Although the MSO was satisfied the Settlement followed appropriate hiring processes, situations like this could be avoided if the position had been posted off-Settlement.

Utilities Cut Off

A Settlement member experienced serious medical problems. The extra expense of medications and travel for treatment caused increased financial strain. Gas and power bills remained unpaid for several months resulting in the utilities being turned off by the Settlement. A member of the complainant's family was successful in an entrepreneurial contract proposal working on the Settlement. The new source of income allowed the complainant to enter into a bill repayment plan resulting in the reconnection of utilities. This resolved the issue, and the file was closed.



CASE SUMMARIES

Hiring Practices

A complainant alleged unfair hiring practices were exercised by a Settlement when there was a delay in filling a Settlement position the complainant had applied for.

Upon review, the MSO found the delay was caused when the candidate who was offered the position did not immediately accept the position, requesting time to think about the matter. When a written reply was received from that candidate declining the position, the Settlement filled the position internally, an action in accordance with Settlement hiring practices.

As Settlement hiring practices were followed, the complainant was notified that the MSO would not be pursuing the matter.

Response to Settlement Member Letters

A complaint was brought forward to the MSO regarding Council's failure to respond to a Settlement member's letters. The Settlement member wrote a letter to Settlement Council. Failure to receive a response to the first letter prompted the member to write a second letter a few months later.

An MSO Advisor met with the Settlement Administrator; the Administrator claimed not to have seen the two letters before. The Administrator took copies of the letters and a response was drafted. It was over one year after the complainant initially wrote the first letter before receiving a response. The administration was advised by the MSO that the length of time to respond was considered administratively unfair.

Bill C-31 Issue

Numerous individuals expressed concerns about members who hold Treaty Indian status because of Canada's Bill C-31 and are members of a Métis Settlement. Because of this dual status, these members are allegedly "double dipping" and outvoting Settlement members. There were concerns that the provisions of the *Métis Settlements Act* and membership guidelines were not being adhered to.

The complainants were advised that the MSO does not have jurisdiction to review membership issues as they relate to the Indian provisions in the *Métis Settlements Act*. The Métis Settlements Appeal Tribunal is empowered to hear disputes regarding membership.

The MSO put forward a recommendation to the Honorable Pearl Calahasen, Minister of Aboriginal Affairs and Northern Development, that the issues of membership and Bill C-31 be addressed. (The Métis Settlements General Council and Aboriginal Affairs and Northern Development are currently addressing the membership issue as part of the Métis Settlements legislative amendment process.)

Refusal to Sign Complaint Form

Despite having several complaints regarding administrative unfairness, a Settlement member refused to sign a Complaint Form, which would have allowed the MSO to look into the individual's complaints. The MSO was unable to proceed as the member was afraid to cause any trouble and preferred to close the matter.

APPENDIX A

Excerpt from the MINISTERIAL ORDER

**legislating
the mandate of the
Office of the Métis Settlements Ombudsman**

I, PEARL CALAHASEN, Minister of Aboriginal Affairs and Northern Development, pursuant to section 235 of the *Métis Settlements Act*, authorize Harley Johnson to exercise or perform the powers and duties conferred on me under the following sections of the *Métis Settlements Act*:

Section 171(1)(a),
Section 171(1)(c) except insofar as it applies to the General Council,
Sections 171(3) and (4),
Section 172(1),
Section 174,
Section 175(a), and
Section 175(c) except insofar as it applies to the General Council.

As provided in section 235(1) of the *Métis Settlements Act*, this authorization does not exclude my authority to exercise any power or duty under the above-mentioned sections of the *Métis Settlements Act*.

This Order comes into force April 1, 2003.

APPENDIX B

Office of the Métis Settlements Ombudsman Budget Variance Report as of March 31, 2004

	Budget Allocation	Expenditure	Balance
Staff	\$ 277,000.00	\$ 290,777.00	\$ (13,777.00)
External Contractors	\$ 5,000.00	\$ 5,588.13	\$ (588.13)
Special Investigations	\$ -	\$ -	\$ -
Legal	\$ 40,000.00	\$ 1,058.39	\$ 38,941.61
Mentoring Program	\$ 23,000.00	\$ 20,502.90	\$ 2,497.10
Communications	\$ 5,000.00	\$ 15,305.53	\$ (10,305.53)
Material & Supplies	\$ 5,000.00	\$ 3,529.31	\$ 1,470.69
Office Furniture	\$ -	\$ 1,107.16	\$ (1,107.16)
Rentals	\$ 15,000.00	\$ 1,987.22	\$ 13,012.78
Maintenance/Repairs	\$ 15,000.00	\$ 925.55	\$ 14,074.45
Telephones	\$ 4,000.00	\$ 9,491.78	\$ (5,491.78)
IT Support	\$ 10,000.00	\$ 15,212.50	\$ (5,212.50)
Computers	\$ -	\$ 6,343.56	\$ (6,343.56)
Software	\$ -	\$ 3,563.00	\$ (3,563.00)
Postage/courier	\$ 1,000.00	\$ 872.16	\$ 127.84
Travel	\$ 40,000.00	\$ 25,433.02	\$ 14,566.98
Training & Development	\$ 5,000.00	\$ 5,788.31	\$ (788.31)
Outreach	\$ 5,000.00	\$ 4,526.91	\$ 473.09
TOTAL	\$ 450,000.00	\$ 412,012.43	\$ 37,987.57

APPENDIX C

Administrative Fairness Checklist

Introduction

An important step along the road to self governance and self regulation of Alberta's eight Métis Settlements is the confidence that everyone is treated fairly and with respect, especially when dealing with Councillors, decision makers and persons in positions of authority.

This Administrative Fairness Checklist is prepared to guide Council, staff, members and other entities in their daily business dealings with each other. Answering the following questionnaire honestly will help decide whether business on a Settlement is being conducted as fairly as possible.

Fairness:	<ul style="list-style-type: none">• Are all proceedings conducted in a fair and open manner?
Understanding the Process:	<ul style="list-style-type: none">• Do decision makers, Councillors and persons in positions of authority ensure that everyone understands the decision-making process?
Impartiality:	<ul style="list-style-type: none">• Do decision makers, Councillors, and persons in positions of authority approach every issue with an open mind?• Do they avoid doing or saying anything that causes people to believe there was preferential treatment in favour of one party or another?
Dignity and Respect:	<ul style="list-style-type: none">• Do decision makers, Councillors and persons in positions of authority treat everyone with dignity and respect?• Do members treat decision makers, Councillors and persons in authority with dignity and respect?
Professional Conduct:	<ul style="list-style-type: none">• Is unprofessional or inappropriate conduct allowed to occur?• Is the use of profane language tolerated?• Are policies in place to ensure that there are consequences for unprofessional or inappropriate conduct or the use of profane language?
Duty to Disclose:	<ul style="list-style-type: none">• As a decision maker, Councillor or person in a position of authority, if a situation occurs that could affect your ability to be neutral or could harm the reputation of your position, do you report the matter to the people involved?
Bias:	<ul style="list-style-type: none">• As a decision maker, Councillor or person in a position of authority, do you avoid activities that could create an actual or perceived appearance of preferential treatment?
Misuse of Position:	<ul style="list-style-type: none">• If you are a decision maker, Councillor, or person in a position of authority, do you make sure you never misuse or abuse your position?
Right to Complain:	<ul style="list-style-type: none">• Are you aware that everyone has the right to complain without fear of punishment or negative consequences?• Are you also aware that punishment or allowing negative consequences to occur to someone that has made a complaint is a serious breach of administrative fairness?

Information and Communication

	<ul style="list-style-type: none">• Is public information available in a format that is understandable and written in plain language?• Is public information also available on audiocassette, Braille, Cree or other formats if necessary?
	<ul style="list-style-type: none">• Are adequate explanations provided for people asking for information about such things as the roles and responsibilities of Council, Council members, staff and workers?• Are adequate explanations given to people asking for details about activities on the Settlement, personal entitlements, eligibility criteria, other options, etc.?
	<ul style="list-style-type: none">• Are all forms that require completion written in plain, clear language?• Are all forms that require completion easy-to-read and understand?• Are individuals promptly provided with forms and statements they have signed?
	<ul style="list-style-type: none">• Are all letters and correspondence written in clear plain language and made available in formats suitable for people who have difficulty reading or who are blind?

Customer Service at Settlement Buildings and Offices

	<ul style="list-style-type: none">• Are ringing telephones answered quickly?• Do telephones ever go unanswered?• Are callers able to leave a voice mail message?• Are telephone messages and faxes replied to in a timely manner?• Is there a publicized fax number?
	<ul style="list-style-type: none">• Is there enough parking available for the public?• Is there convenient handicapped parking?• Is there convenient public access?• Are Settlement buildings, offices and washrooms wheelchair accessible?• Are there play areas for children?• Are Settlement offices and buildings child-friendly?• Are places of work on the Settlement safe and healthy for staff?• Are Settlement buildings and offices designed to respect and protect the privacy of Settlement members and staff?

Decisions and Procedures

	<ul style="list-style-type: none">• Are parties given a chance to present information and evidence in support of their position?
	<ul style="list-style-type: none">• Are decisions made and actions taken within a reasonable time period?
	<ul style="list-style-type: none">• Are adequate reasons for decisions and actions communicated or provided to the affected parties in a meaningful way?
	<ul style="list-style-type: none">• Are affected individuals informed about ways to appeal, request a review, or complain about decisions made or actions taken?• Is this information provided in a polite, respectful way?• Is everyone in the community aware of these rights through highly visible posters and brochures?
	<ul style="list-style-type: none">• Are complaint procedures well known, clearly defined and understandable?• Are community suggestions for improving complaint procedures published or made available to Settlement members?• Are complaints welcome and given careful consideration?

Organizational Issues at Settlement Offices and Work Sites

- | | |
|--|---|
| | <ul style="list-style-type: none">• Do all job descriptions clearly and simply outline the work performed?• Do the job titles accurately describe the work done? |
| | <ul style="list-style-type: none">• Can jobs be combined, refined or the work re-organized to achieve a higher quality or better delivery of services? |
| | <ul style="list-style-type: none">• Could service quality and fairness to Settlement members be improved through adjustments in policy and procedures? |
| | <ul style="list-style-type: none">• Could relationships with other partners, outside communities and government agencies be made better through adjustments to policy and procedures? |
| | <ul style="list-style-type: none">• What procedures are in place to encourage an internal audit or to check that work is being done in the way it was originally planned? |
| | <ul style="list-style-type: none">• Is there an attitude in the work place that promotes growth, change and ongoing improvement? |

Agency Review and Planning

- | | |
|--|---|
| | <ul style="list-style-type: none">• Are affected members invited to take part in the planning of changes to the Settlement?• Is this consultation done in a meaningful and timely way?• Does everyone involved know how the final decision will be made at the beginning of his or her involvement? |
| | <ul style="list-style-type: none">• Are systems in place that accurately record and organize statistical information so that changes in programs or policies can be evaluated and adjusted if necessary? |

Distribution of Settlement Resources

- | | |
|--|---|
| | <ul style="list-style-type: none">• Is the distribution of Settlement land and/or housing fair?• Do members have equal opportunity to receive Settlement land and/or housing?• Are the qualification criteria to receive land and/or housing clearly understood and fair? |
| | <ul style="list-style-type: none">• Are members given an equal opportunity to compete for jobs?• Are contracts and work distributed fairly amongst Settlement members? |

APPENDIX D

Conflict of Interest Checklist

Background

All members of a Métis Settlement Community are entitled to a governance structure that is conducted with fairness, integrity and impartiality of decision making. Public trust is damaged when the private interests of an elected official or an employee takes, or appears to take, priority over the public interest, thus leading to a conflict of interest or an apparent conflict of interest.

Purpose of the Checklist

This checklist will be used to guide conflict of interest investigations within the Métis Settlements of Alberta. It can inform the person making a complaint and the recipient of a complaint about the criteria to be used in an investigation. It can also serve as a training tool and as information for the Métis community. This checklist is a living document that will change from time to time as the need arises.

Application

This checklist applies to all elected Councillors and employees of Métis Settlement Councils and their entities (businesses owned in whole or in part by the Settlement).

Definitions

"Conflict of Interest" arises when a Council member or an employee is involved in a decision or action during the course of his/her public duties, knowing that there is, or may be, an opportunity to further his/her personal or financial interests or those of an immediate family member or close personal friend.

"Apparent Conflict of Interest" arises when a reasonable person would think that the individual's judgment is likely to be affected by a private interest.

"Potential Conflict of Interest" is something that may develop into an actual conflict of interest.

"Immediate Family" means spouse, father, mother, brother, sister and children.

"Individual(s), someone, anyone, and everyone" refers to Councillors and employees of Métis Settlement Councils and their entities.

"Private Interest" refers to an interest that is unique to the individual as opposed to an interest or matter that applies to all or a large group of members of the community. A private interest benefits the individual, an immediate family member or a close personal friend in a disproportionate or preferential way. Private interest is not limited to financial matters. It is when private matters interfere with a Councillor's or an employee's public role that they create a conflict of interest or an apparent conflict of interest.

CONFLICT OF INTEREST POLICY:

- a) Are there Council policies and guidelines regarding conflict of interest and, if so, are they followed?
- b) Are these policies consistent with the *Métis Settlements Act* and any policies developed through the Métis Settlements Council or General Council?
- c) Does Council ensure that all managers, employees and business-related entities are made aware of the conflict of interest policy and guidelines?
- d) What actions are required of public office holders?
 - In all cases, the community member who holds a public office is responsible to take immediate action if he/she suspects that an actual, apparent or potential conflict of interest is possible, whether financial or otherwise.
 - Section 39 of the *Métis Settlements Act* requires a Council member to disclose any real or apparent financial conflict of interest to the Council. If the matter before Council is to be decided by a resolution, the Councillor must withdraw from further discussion, voting or involvement unless it is decided by Council that the conflict of interest is insignificant.
 - A Council employee is required to immediately disclose a possible conflict of interest to his/her supervisor. The employee may be required to withdraw from any further involvement or action on the matter.

EXAMPLES OF CONFLICT OF INTEREST

While it is not possible to predict all conflict of interest situations, people can use the following headings and questions to help identify where most conflict of interest situations could occur:

a) Furthering Private Interests

- Does an immediate family member or a close personal friend stand to gain or lose financially from the individual's or the organization's decision or action in a matter?
- Does an immediate family member or a close personal friend stand to gain or lose in some way, other than financially, from the individual's or the organization's decision or action in a matter?
- Is anyone using his/her position to influence a decision, knowing it might benefit an immediate family member or a close personal friend?
- Is anyone using or communicating privileged or confidential information, knowing it might benefit an immediate family member or a close personal friend?
- Is anyone using his/her position to influence a decision or an action, knowing that it may benefit or appear to benefit an immediate family member or a close personal friend?

b) Nepotism

- Is someone in a managerial or regulatory position over an immediate family member or anyone with whom the relationship between them could bring that individual's fairness into question?
- Is anyone involved in interviews or hiring decisions where applicants are, or include, immediate family members or close personal friends?

c) Acceptance of Gifts, Gratuities or Other Benefits

- Is anyone accepting favours, gifts, services or hospitality from those who stand to gain or lose from that individual's or the organization's decision or action?

Note: This does not prevent acceptance of small gifts of little value or of a cultural nature, or from being honoured in a public manner or publicly being recognized for good work.

d) Outside Employment

- Is an immediate family member or a close personal friend gaining or appearing to gain an unfair advantage over other Settlement members in obtaining contracts or other outside employment, due to that individual's public role or access to privileged information?
- Is anyone conducting private business during working hours to the extent that it interferes with his/her public duty?
- Is anyone using public premises, equipment or supplies for private use without appropriate authorization?
- Is anyone using their public role to advance their own private interests in any way?

e) Public Statements

- Does everyone disclose confidential information only to those who are authorized to receive it? (These actions may also be governed by the *Freedom of Information and Protection of Privacy Act*.)
- Does everyone avoid making public remarks that are not positive and supportive of fellow workers, managers and their public role?

f) Business or Financial Interests

- Does everyone disclose to the proper authority any business or financial interests of theirs or an immediate family member that may be affected, or may appear to be affected, by a matter under consideration with which they become involved in the course of their public duties?

g) Volunteer Activities

- Do volunteer activities take up an undue amount of time during working hours?
- Does everyone avoid making any volunteer activities look like official or Council business? Is payment wrongfully accepted for any volunteer activities?

Note: Individuals are encouraged to participate in volunteer activities unless this causes an actual or apparent conflict of interest.

h) Political Activities

- Are individuals prepared to take a leave of absence from their Settlement position if campaigning for a federal or provincial office? If successful, are they prepared to resign from their Settlement position?
- Do individuals observe all conflict of interest guidelines in the course of their political activities?

i) General Questions to Consider

- What if the positions were reversed? What if the decision maker was applying for a job, a promotion or a contract and the applicant was in the position of the decision maker? Would the process seem fair?
- If the individual participates in this decision or action, would he/she be worried if fellow workers and the public became aware of his/her association or connection?
- Is the individual making the decision confident of his/her ability to act fairly and in the public interest?